

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

DAVID TULIO RODRIGUEZ,

Petitioner,

v.

WILLIAM STEPHENS,
Director, Texas Dep't of Criminal Justice,
Institutional Division,

Respondent.

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2:12-CV-187

ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION
and DENYING PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner has filed with this Court a petition for a federal writ of habeas corpus. On May 30, 2014, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the instant habeas application be denied. On June 27, 2014, petitioner filed objections to the Magistrate Judge's Report and Recommendation.

The undersigned United States District Judge has made an independent examination of the record in this case and has considered the objections made by petitioner to the Report and Recommendation. The objections filed by petitioner are hereby OVERRULED and the Magistrate Judge's Report and Recommendation is ADOPTED.¹ Accordingly, the petition for a writ of habeas corpus is DENIED.

IT IS SO ORDERED.

ENTERED this 7th day of July 2014.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE

¹Petitioner has objected to the Magistrate Judge's reference to Tex. Penal Code Ann. § 3.04(c). See R&R p. 16. Petitioner's objection appears valid, but the citation to Tex. Penal Code Ann. § 3.04(c) is of no consequence since, in denying state habeas relief, the Texas Court of Criminal Appeals could have determined counsel's decision not to seek severance was a strategic decision in order to avoid the possibility of consecutive sentences. Consecutive sentences would have been permissible in separate trials. See R&R p. 16.